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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
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08/635,202 04/17/96 KNOWLTON

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15M2/1017

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EXAMINER
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HULINA-A

ART UNIT	PAPER NUMBER
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1501

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DATE MAILED:

10/17/96

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on \_\_\_\_\_
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1835 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 23-35 is/are pending in the application.
- Of the above, claim(s) none is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 23-35 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

- ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

SEE OFFICE ACTION ON THE FOLLOWING PAGES -

1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 23-35 are rejected under 35 U.S.C. § 103 as being unpatentable over Fellner in view of Storm, II (Storm).

Fellner discloses a method of controlling obesity in a human subject by non-invasively eliminating excess healthy adipose tissue from a subcutaneous adipose tissue layer comprising focusing radiant energy, such as radio frequency via contact electrodes, on the excess adipose cells for a time sufficient to cause destruction of said cells.

Storm discloses an electrode structure for use in emitting electromagnetic radiation for localized heating of tissue in medical therapy and capable of permitting deep heat penetration while skin surfaces remain at lower and physiologic temperatures not harmful to living tissue. A thin flexible pliant bag filled with electrolyte solution and placed between the skin surface and


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the electrode means can be used to increase surface contact on very irregular skin surfaces (col. 2, lines 62-68). The electrode means is connected to a power source. The flexible bag has inlet and outlet fitting for cooling fluid (col. 4, lines 10-16). The electrode means of the invention provides regulation and control of superficial heating of normal living tissue while permitting the application of electromagnetic radio frequency heating at relatively great depths of tumor bearing tissues or otherwise diseased tissue in the body.

It would have been obvious to one having ordinary skill in the art to use the electrode means disclosed by Storm to destroy adipose tissue as disclosed by Fellner to prevent destruction of the superficial layers of the skin (i.e. melanocytes).

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy Hulina whose telephone number is (703) 308-2974.

  
**Amy Hulina**  
**Primary Examiner**  
**Group 1500**

AH  
October 14, 1996